

PRISONER'S CIVIL RIGHTS COMPLAINT (Rev. 05/2015)

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

FILED

September 08, 2020
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY: lad
DEPUTY

Cody Barnhill 1948527
Plaintiff's Name and ID Number

Hughes Unit Rt. 2 Box 4400
Place of Confinement Gatesville, Tx 76597

6:20-cv-00826

CASE NO. _____
(Clerk will assign the number)

v.

- ① Captain White, in her individual capacity
Defendant's Name and Address
- ② Warden Nick Clayton, in his individual capacity
Defendant's Name and Address
- ③ Warden David Lofton in his individual capacity
Defendant's Name and Address
- ④ Warden Chimdi Akwitti, in his individual capacity
Defendant's Name and Address
- ⑤ Warden Mrs. Lofton in her individual capacity
Defendant's Name and Address
(DO NOT USE "ET AL.")

- ⑥ Major Lawrence Lighten, in his individual capacity
⑦ C.O. Aguiar, in his individual capacity

* All Defendants address is the same:
Hughes Unit
Rt. 2 Box 4400
Gatesville, Tx
76597

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACKSIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

FILING FEE AND IN FORMA PAUPERIS (IFP)

1. In order for your complaint to be filed, it must be accompanied by the statutory filing fee of \$350.00 plus an administrative fee of \$50.00 for a total fee of **\$400.00**.
2. If you do not have the necessary funds to pay the fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis*, setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six-month history of your inmate trust account. If you are an inmate in TDCJ-CID, you can acquire the application to proceed *in forma pauperis* and the certificate of inmate trust account, also known as *in forma pauperis* data sheet, from the law library at your prison unit.
3. The Prison Litigation Reform Act of 1995 (PLRA) provides "... if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." See 28 U.S.C. § 1915. Thus, the court is required to assess and, when funds exist, collect, the entire filing fee or a initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the court will apply 28 U.S.C. § 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your inmate trust account, until the entire \$350.00 statutory filing fee has been paid. (The \$50.00 administrative fee does not apply to cases proceeding *in forma pauperis*.)
4. If you intend to seek *in forma pauperis* status, do not send your complaint without an application to proceed *in forma pauperis* and the certificate of inmate trust account. Complete all essential paperwork before submitting it to the court.

CHANGE OF ADDRESS

It is your responsibility to inform the court of any change of address and its effective date. Such notice should be marked "NOTICE TO THE COURT OF CHANGE OF ADDRESS" and shall not include any motion for any other relief. Failure to file a NOTICE OF THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

I. PREVIOUS LAWSUITS:

A. Have you filed *any* other lawsuit in state or federal court relating to your imprisonment? ☒ YES ☐ NO

B. If your answer to "A" is "yes", describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)

1. Approximate date of filing lawsuit: October 22, 2015
2. Parties to previous lawsuit:
Plaintiff(s) Cody Barnhill
Defendant(s) Pepper Bradberry
3. Court: (If federal, name the district; if state, name the county.) U.S. District, Wichita County
4. Cause number: 7:18-CV-20159
5. Name of judge to whom case was assigned: Read C. O'Connor
6. Disposition: (Was the case dismissed, appealed, still pending?) Still Pending
7. Approximate date of disposition: _____

PREVIOUS LAWSUITS CONT:

- 1- Approximate date of filing lawsuit: March 20th 2019
 - 2- Parties to previous lawsuit:
Plaintiff: Cody Barnhill
Defendants: J.C.D. Muirhead, C.D. Cates, C.D. Chacon and Warden Holmes
 - 3- Court: 5th District, Wichita County Texas
 - 4- Cause #: 7:19-CV-00026
 - 5- Name of judge to whom case was assigned: Judge Ray
 - 6- Disposition: Still pending
-

- 1- Approximate date of filing lawsuit: February 13th 2020
 - 2- Parties to previous lawsuit:
Plaintiff: Cody Barnhill
Defendant: David Lofton, Chimdi Akwitti, Nick Clayton, Beau Smith Sr., Lawrence Lighten, Shane Martin, Jimmie Winkfield Jr, Michael Kluck, Christopher Sheehan, Lt. Ross and Tiffany Richardson
 - 3- Court: 5th District Coryell County, Texas
 - 4- Cause #: 6:20-CV-00016
 - 5- Name of judge to whom case was assigned: Judge Albright
 - 6- Disposition: Still pending
-

- 1- Approximate date of filing lawsuit: July 1st 2020
 - 2- Parties to previous lawsuit:
Plaintiff: Cody Barnhill
Defendant: Grace Mathapathi
 - 3- Court: 5th District, Wichita County Texas
 - 4- Cause #: 7:20-CV-00084
 - 5- Name of judge to whom case was assigned: Judge D'Connor
 - 6- Disposition: Still pending
-

II. PLACE OF PRESENT CONFINEMENT: Hughes Unit

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted all steps of the institutional grievance procedure? X YES ___ NO

Attach a copy of your final step of the grievance procedure with the response supplied by the institution.

IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff: Cody Barnhill # 1948527 Hughes Unit
Rt. 2 Box 4400
Gatesville, Tx 76597

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: Food Service Manager, Captain White, acting under color of state law
Hughes Unit, Rt. 2 Box 4400, Gatesville, TX 76597

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Numerous acts of deliberate indifference to my serious medical need

Defendant #2: Warden, Nick Clayton, acting under color of state law
Hughes Unit, Rt. 2 Box 4400, Gatesville, TX 76597

Briefly describe the acts(s) or omission(s) of this defendant which you claimed harmed you.

Numerous repudiations of my pleas for action regarding his subordinate Capt. White

Defendant #3: Warden, David Lofton, acting under color of state law
Hughes Unit, Rt. 2 Box 4400, Gatesville, TX 76597

Briefly describe the acts(s) or omission(s) of this defendant which you claimed harmed you.

Numerous repudiations of my pleas for action regarding his subordinate Capt. White

Defendant #4: Warden, Chimdi Akwitti, acting under color of state law
Hughes Unit, Rt. 2 Box 4400, Gatesville, TX 76597

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Numerous repudiations of my pleas for action regarding his subordinate Capt. White

Defendant #5: Warden, Mrs. Lofton, acting under color of state law
Hughes Unit, Rt. 2 Box 4400, Gatesville, TX 76597

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

A couple of repudiations of my pleas for action regarding her subordinate Capt. White

DEFENDANTS TO THIS SUIT CONT. :

Defendants #6: Major, Lawrence Lighten, acting under color of state law
Hughes Unit, Rt. 2 Box 4400, Gatesville, Tx, 76597

Acts of this Defendant: Numerous repudiations of my pleas for action regarding his subordinate
Capt. White

Defendant #7: Correctional officer Aquilar, acting under color of state law
Hughes Unit, Rt. 2 Box 4400, Gatesville, Tx, 76597

Acts of this Defendant: Deliberate indifference to my serious medical need (ie Diet For Health/DFH).

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

Ever since arriving on this unit in December 2018, I have been unsuccessful in getting my prescribed diet (i.e. Diet For Health/D.F.H.) made per C.M.H.C. policy. I've sent many I-60's to Capt. White, the Food Service Manager, as directed by all the officers who I've been arguing with over the meals for breakfast, lunch and dinner for the past 2 years. I've not recieved one response. I've also sent in many I-60's to all the Wardens, Major Lighten and C.O. Aquilar, who is the building kitchen officer. ~~Please see the copies of just a few of these I-60's (exhibit A).~~ This deliberate indifference to my serious medical need (i.e. hypertension) has harmed me for 2 years. Very high blood pressure has been the normal daily attack on my life. Severe headaches, nose bleeds and chest pains.

VI. RELIEF:

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

Punitive damages and compensatory damages for shortening my life, for mental, physical assaults, in the amount of \$55,000

VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases.

"Cody Everett Barabill" alias: "BuckShot"

B. List all TDCJ-CID identifaciton numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you.

#1948527 # 1058781 # 1741478

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? ____ YES ☒ NO

B. If your answer is "yes," give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): _____

2. Case number: _____

3. Approximate date sanctions were imposed: _____

4. Have the sanctions been lifted or otherwise satisfied? ____ YES ____ NO

C. Has any court ever warned or notified you that sanctions could be imposed? ____ YES X NO

D. If your answer is "yes," give the following information for every lawsuit in which a warning was issued. (If more than one, use another piece of paper and answer the same questions.)

1. Court that issued warning (if federal, give the district and division): _____
2. Case number: _____
3. Approximate date warning was issued: _____

Executed on: 8-27-20
DATE

Cody Barnhill #1948527
[Signature]
(Signature of Plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions or appeals (from a judgment in a civil action) in a court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire filing fee and costs assessed by the court, which shall be deducted in accordance with the law from my inmate trust account by my custodian until the filing fee is paid.

Signed this 27th day of August, 2020.
(Day) (month) (year)

Cody Barnhill #1948527
[Signature]
(Signature of Plaintiff)

WARNING: Plaintiff is advised any false or deliberately misleading information provided in response to the above questions may result in the imposition of sanctions. The sanctions the court may impose include, but are not limited to, monetary sanctions and the dismissal of this action with prejudice.

CERTIFICATE OF SERVICE

I, Cody Barnhill, hereby certify that the following has been sent via U.S. Mail:

- 1- Civil Sheet
- 1- 42 U.S.C. § 1983 Complaint w/ Judges copy
- 1- Application to proceed in forma pauperis w/ 6-month account statement
- 1- Step 2 Grievance
- 1- Order to Show Cause For A Preliminary Injunction w/ Judges Copy
- 1- Memorandum of Law w/ Judges Copy
- 1- Summons w/ Judges copy

On this the 27th day of August 2020 addressed to:

U.S. District Court for the Western District
of Texas

800 Franklin Ave.
Waco, TX 76701

Cody Barnhill

Plaintiff

Cody Barnhill # 1945587
Hughes Unit
P.O. Box 4400
Gatesville, TX
76547

Civil Cover Sheet

Please find within:

- 1- 42 U.S.C. § 1983 Complaint w/ Judges copy
- 1- Application to proceed in forma pauperis w/ 6-month account statement
- 1- Step 2 Grievance
- 1- Order To Show Cause For A Preliminary Injunction w/ Judges copy
- 1- Summons w/ Judges copy
- 1- Memorandum of Law (for Preliminary Injunction) w/ Judges copy
- 1- Certificate of Service

RECEIVED

SEP 08 2020

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY _____ DEPUTY CLERK

Name Cody Barabill
TDC# V1948587
Hughes Unit
Rt. 2 Box 4400
Gatesville, TX 76597

Clerk of Court
U.S. District Court
Western District of Texas
800 Franklin Ave.
Waco, TX 76701

